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SUBJECT: COSTA RICA: AUSTR SETS TRUE TIMELINE FOR CAFTA
IMPLEMENTATION

1. (U) SUMMARY. AUSTR Everett Eissenstat met with GOCR officials on April 24 and discussed several issues surrounding CAFTA-DR implementation status including the shrinking timetable; the need to ensure full CAFTA-DR compliance; remaining substantive issues, including the areas of insurance, intellectual property, and biodiversity; and USTR's willingness to commit resources, including sending a technical team to Costa Rica, to "close out" implementation. The GOCR enthusiastically responded to the AUSTR's offer of sending a team to Costa Rica to work on technical issues. The GOCR also acknowledged the AUSTR's explanation of the shrinking timetable. The true working deadline, when accounting for USTR certification and the GOCR's Sala IV review process, is early July. All the remaining CAFTA-DR implementing legislation should really be completed by then in order to ensure entry-into-force by October 1. END SUMMARY.

MEETING THE MINSTER OF THE PRESIDENCY AND THE VP

2. (U) Minister of the Presidency Rodrigo Arias and Vice President Laura Chinchilla hosted a lunch for the AUSTR on April 24. Also attending for the GOCR were Foreign Trade Minister Marco Vinicio Ruiz, Ambassador to the U.S. Tomas Duenas, Vice Minister of the Presidency Roberto Thompson, and legislative adviser Alex Silbaja. CDA Peter Brennan, ADCM David Henifin, FCO, and Econoff accompanied the AUSTR. Minister Arias emphasized the importance of CAFTA-DR to President Arias (and, thus, was thankful for the extension to October 1), reviewed the lack of progress under the previous administration, and noted how CAFTA-DR has gained support since the October referendum of last year. The Minister said he monitors the progress and procedures of CAFTA implementation "in detail" and expressed optimism that all the legislation could be completed by July with insurance and telecommunications wrapping up in May.

USTR COMMITMENT OF RESOURCES

3. (U) The AUSTR replied that USTR was pleased to be able to offer a March 1 extension through October 1. The extension process required much discussion with CAFTA-DR partners. A July completion of the implementation package would be a welcome result. Furthermore, completion any later would jeopardize the process as the deadline for completion is truly sooner than October. When factoring for the USG's final review (about four weeks), likely Sala IV review of the last bill (about four weeks), and a possible second Sala IV review in the event that a bill is returned to the national assembly (another four weeks), a deadline of 12 weeks prior to October 1 -- July 1 -- is the realistic working deadline. In addition, USTR will commit resources to assist the GOCR with completing the implementation review. The AUSTR specifically spoke of the possibility of travel by a USTR team to San Jose to push the implementation process and help reach agreement on the remaining substantive issues. (NOTE: The USTR team is scheduled to visit the week of May 11.) The AUSTR also emphasized the importance of addressing all remaining issues to ensure entry-into-force by October 1, including biodiversity, even though these issues may be politically difficult.

4. (SBU) Vice President Chinchilla responded positively to the suggestion that a technical team visit Costa Rica. She described the political difficulties with crafting graduated penalties for IP legislation and the resistance from legislators within the pro-CAFTA coalition (G38) against modifying criminal law. Of note, she added that the GOCR wants to establish a special office to prosecute IP crimes.

STAKES ARE HIGH; MUST STAYED FOCUSED

5. (U) The AUSTR expressed a strong respect for Costa Rican democracy by stressing that the GOCR must direct and manage the CAFTA-DR process in Costa Rica. He emphasized the importance of full compliance with the terms of CAFTA-DR, pointing out that the results of not finishing the implementation process by October 1 or finishing the implementing legislation which is not CAFTA-DR compliant yields the same result: Costa Rica will not achieve entry-into-force by October 1. He urged the GOCR to focus on creative ways to arrive at CAFTA-DR compliant solutions to their legislative problems. He likened the process to solving a complex mathematical equation; there could be a number of ways to arrive at the desired answer, but there was only one correct (i.e., CAFTA-compliant) answer. The AUSTR requested closer collaboration on regulations as the sooner a review starts, the sooner potential

problems can be identified and resolved.

MEETING WITH MINISTER RUIZ AND COMEX

6. (U) Earlier in the day, the AUSTR met with COMEX Minister Ruiz and his team (Director General Gabriela Castro, Alan Thompson, and Susana Vasquez) and Ambassador Duenas. The AUSTR outlined the high priority trade agreement compliance and stressed the necessity to focus on the remaining substantive issues given the limitations of the schedule.

AND THE ISSUES?

17. (U) The COMEX team raised several issues on insurance and noted that the insurance regulations should be ready by early May. On other issues, the GOCR explained the political difficulty of addressing biodiversity. The GOCR also acknowledged that regulations and spectrum allocation remain as telecommunications "to-do" items. COMEX expected to finish telecom regulations by the end of May. All agreed that a meeting between USTR's telecom expert and ICE (the national telecom and electricity provider) would be essential to resolving the questions on spectrum allocation. A plan for IP could not be fully discussed since at the time of the AUSTR-COMEX meeting, the Sala IV had yet to issue its full ruling as to why it returned an IP bill to the national assembly for "corrections." The AUSTR acknowledge that several of these issues are politically difficult, but at the end of the day COMEX had to find a way to address them in a timely manner and in a way that is fully CAFTA-DR compliant.

COMMENT

18. (SBU) There has been little CAFTA-DR progress since AUSTR Eissenstat's visit. The special IPR prosecutor idea mentioned by VP Chinchilla has been put on hold, pending resolution of the diplomatic incident caused when Attorney General Francisco Dall'Anese was delayed in the Miami airport on April 23 as he arrived on official business. The prickly Dall'Anese took offense at his perceived maltreatment, returned to Costa Rica, went public with his experience, and suspended all cooperation with the USG on judicial issues. We expect cooperation to return to normal, but we are not there, yet, and IPR enforcement has never been high on Dall'Anese's agenda, anyway. As of April 25, the legislature had completed work on seven of 13 implementation bills, but work has stopped since the annual legislative leadership elections on May 1 while the new legislative session gets organized. The agenda for the new session is quite lengthy; we have been pushing legislators not to let the CAFTA-DR bills get buried under the flow of other business. A USTR team visit will thus be a timely instrument to help the GOCR maintain its CAFTA-DR focus.

19. (U) AUSTR Eissenstat has cleared this cable.

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